

EXHIBIT H

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: BEXTRA AND CELEBREX
MARKETING SALES PRACTICES AND
PRODUCT LIABILITY LITIGATION

CASE NO. M:05-CV-01699-CRB
MDL No. 1699

This Order Relates to:
ALL CASES.

**PRETRIAL ORDER NO. 5: NOTICE OF
INTENT TO APPOINT THE
HONORABLE FERN SMITH AS SPECIAL
MASTER**

1. Pursuant to Federal Rule of Civil Procedure 53(b)(1), the Court hereby provides all parties notice that it intends to appoint the Honorable Fern Smith, United States District Judge (Retired), as a Special Master to assist the Court in this litigation. The Court anticipates that Judge Smith will assist the Court with matters such as case management, trial selection and case resolution procedures, scheduling orders, specially-assigned discovery motions, and other issues on which the Court and the parties wish to utilize her services.

2. Any party wishing to be heard with respect to such appointment must notify Plaintiffs' Liaison Counsel (for any counsel representing a plaintiff) or Defendants' Liaison Counsel (for any counsel representing a defendant) by 5:00 p.m. Pacific Standard Time on **Tuesday, February 14, 2006**.

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1 3. Liaison Counsel are directed to meet and confer with each other and, after
2 doing so, jointly with Judge Smith, with respect to an order appointing her as Special Master,
3 which such order shall contain the contents required by Federal Rule of Civil Procedure 53(b)(2).
4 The parties shall submit a joint proposed order appointing Judge Smith as Special Master by
5 Tuesday, March 14, 2006.

6 4. The Court requests that Judge Smith notify the Court if she is willing to
7 accept such appointment and, if so, to file an affidavit disclosing whether there is any ground for
8 disqualification under 28 U.S.C. § 455, as required by Federal Rule of Civil Procedure 53(b)(3).

9 || IT IS SO ORDERED.

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11 || Dated: February 7, 2006

/S/
HONORABLE CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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